

WO

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Clifford E. Earixson,)	No. Civ. 02-2543-PCT-ROS (VAM)
Petitioner,)	REPORT AND RECOMMENDATION
vs.)	
Deputy Warden S. Walker, et.))	
al.,)	
Respondents.)	

Petitioner's Petition for Writ of Habeas Corpus was filed on December 17, 2002. (Doc. 1). On August 6, 2004, this Court issued a Report and Recommendation recommending, in part, that Petitioner's petition be granted. (Doc. 42). The District Court rejected this recommendation, and referred the matter back to this Court for further proceedings. (Doc. 49). This Court issued a Supplemental Report and Recommendation on May 2, 2005, recommending that the habeas corpus petition be denied. (Doc. 50). Thereafter, Petitioner filed a motion to stay the proceedings in order to exhaust several state law claims. (Doc. 53). The District Court granted the motion. (Doc. 56).

1 Petitioner filed a motion to amend or supplement his habeas
2 corpus petition on July 3, 2006. (Doc. 57). The District
3 Court referred Petitioner's motion to this Court. (Doc. 58).
4 The District Court further rejected the earlier filed
5 Supplemental Report and Recommendation as "possibly
6 premature." (Doc. 58).

7 This court denied Petitioner's motion to amend or supplement
8 without prejudice for failure to comply with Rule 15.1 of the
9 Local Rules of Practice of the United States District Court
10 for the District of Arizona, L.R. Civ. 15.1(a)(1), (2). (Doc.
11 59). Petitioner was granted two additional opportunities to
12 conform his motion to the Local Rules. (Docs. 60, 61, 62,
13 63). The Court advised Petitioner that it would proceed with
14 disposition of the case if no proper motion was filed by
15 September 22, 2006. (Id.). No proper motion was received.
16 Therefore, in an order filed contemporaneously with this
17 Report and Recommendation, the Court denied Petitioner's final
18 motion to amend or supplement.

19 The Magistrate Judge now requests that the District Court
20 consider the Supplemental Report and Recommendation (Doc. 50),
21 previously rejected as premature. For the reasons set forth
22 in the Supplemental Report and Recommendation, the Magistrate
23 Judge recommends that Grounds II, V, and VII of the habeas
24 corpus petition be denied. The Court further recommends that,
25 in light of the District Court's Order of March 23, 2005, the
26 habeas corpus petition be denied in full.

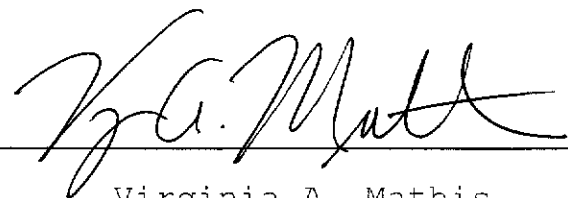
27

28

1 IT IS THEREFORE RECOMMENDED that Petitioner's Petition for
2 Writ of Habeas Corpus [Doc. 1] be **denied**.

3 This Report and Recommendation is not an order that is
4 immediately appealable to the Ninth Circuit Court of Appeals.
5 Any notice of appeal filed pursuant to Rule 4(a)(1), Federal
6 Rules of Appellate Procedure, should not be filed until entry
7 of the district court's order and judgment. The parties shall
8 have ten (10) days from the date of service of this Report and
9 Recommendation within which to file specific written
10 objections with the Court. Thereafter, the parties have ten
11 (10) days within which to file a response to the objections.
12 Failure to timely file objections to any factual
13 determinations of the Magistrate Judge will be considered a
14 waiver of a party's right to de novo consideration of the
15 factual issues and will constitute a waiver of a party's right
16 to appellate review of the findings of fact in an order or
17 judgment entered pursuant to the Magistrate Judge's Report and
18 Recommendation.

19 DATED this 4th day of December, 2006.

20
21
22
23 

24 Virginia A. Mathis

25 United States Magistrate Judge
26
27
28